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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING
ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT
OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Elimination of All Forms of Religious Intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the elimination of all forms of religious intolerance, prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 51/93 of 12 December 1996.



ANNEX

Interim report on the elimination of all forms of religious
intolerance prepared by the Special Rapporteur of the
Commission on Human Rights in accordance with General
Assembly resolution 51/93

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 6	3
II. <u>IN SITU</u> VISITS AND THEIR FOLLOW-UP	7 - 17	3
III. DEVELOPMENT OF A CULTURE OF TOLERANCE	18 - 23	5
IV. STATUS OF COMMUNICATIONS SENT SINCE THE FIFTY-THIRD SESSION OF THE COMMISSION ON HUMAN RIGHTS	24 - 61	6
V. CONCLUSIONS AND RECOMMENDATIONS	62 - 93	16
A. Aspects of freedom of religion and belief	63 - 78	17
B. Protection and promotion of freedom of religion and belief	79 - 89	19
C. Strengthening of the mandate of the Special Rapporteur	90 - 93	21

I. INTRODUCTION

1. At its forty-second session, the Commission on Human Rights decided, in resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental action in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures for such situations.
2. In accordance with the terms of that resolution, the Special Rapporteur submitted his first report to the Commission at its forty-third session.¹ His mandate was extended for one year by resolution 1987/15 of 4 March 1987, adopted at the same session of the Commission.
3. From 1988 onwards, the Special Rapporteur submitted yearly reports to the Commission.² In its resolutions 1988/55, 1990/27 and 1992/17, the Commission twice decided to extend the Special Rapporteur's mandate for two years, and then for three years until 1995.
4. After the resignation of Mr. Angelo Vidal d'Almeida Ribeiro, the Chairman of the Commission appointed Mr. Abdelfattah Amor as Special Rapporteur. The latter submitted his reports³ to the Commission on Human Rights at its fiftieth, fifty-first, fifty-second and fifty-third sessions. By its resolution 1995/23 of 24 February 1995, the Commission decided to extend the Special Rapporteur's mandate for three years.
5. Pursuant to General Assembly resolutions 49/188 of 23 December 1994 and 50/183 of 22 December 1995, the Special Rapporteur submitted interim reports to the Assembly at its fiftieth and fifty-first sessions (A/50/440 and A/51/542).
6. This report is submitted pursuant to General Assembly resolution 51/93 of 12 December 1996. The Special Rapporteur has examined in situ visits and their follow-up, the development of a culture of tolerance and the status of communications since the fifty-third session of the Commission on Human Rights.

II. IN SITU VISITS AND THEIR FOLLOW-UP

7. Since taking up his appointment, the Special Rapporteur has sought to strengthen the in situ visit activities he carries out under his mandate.
8. To recapitulate, since 1994 the Special Rapporteur has carried out the following missions:
 - (a) Visit to China in November 1994 on the initiative of China;⁴
 - (b) Visit to Pakistan in June 1995 at the invitation of Pakistan;⁵
 - (c) Visit to the Islamic Republic of Iran in December 1995 on the initiative of Iran;⁶

(d) Visit to Greece in June 1996 at the invitation of Greece (A/51/542/Add.1);

(e) Visit to the Sudan in September 1996 at the invitation of the Government of the Sudan and pursuant to General Assembly resolution 50/197 of 22 December 1995 and Commission on Human Rights resolution 1996/73;

(f) Visit to India in December 1996 at the invitation of India;⁷

(g) Visit to Australia in February-March 1997 at the invitation of Australia (report to be submitted to the Commission on Human Rights at its next session);

(h) Visit to Germany in September 1997 at the invitation of Germany (ibid).

9. These visits enable the Special Rapporteur to gather information on allegations and on incidents, norms and actions that are or appear to be inconsistent with the provisions of the 1981 Declaration, and also to analyse and publicize the positive experiences and initiatives of States pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights.

10. Requests for visits to Turkey and Viet Nam (in 1995) and to Indonesia and Mauritius (in 1996) have thus far proved fruitless. Despite reminder letters, Turkey continues to ignore the Special Rapporteur's request. Viet Nam, despite correspondence indicating that the Vietnamese authorities would consider the Special Rapporteur's request, has not responded with a final decision. The Special Rapporteur wishes to remind both States of the importance he attaches to his visiting them as soon as possible in a spirit of strengthening dialogue and developing cooperation.

11. A request for a visit was also sent to Israel in 1997, but no reply has so far been received. In terms of future visits, the Special Rapporteur is to travel to the United States of America at the invitation of that country at a date that should soon be set.

12. In parallel with these visits, the Special Rapporteur has sought to set a follow-up procedure in motion. To this end, letters were sent in 1996 to the Permanent Missions of China, the Islamic Republic of Iran and Pakistan to the United Nations Office at Geneva (A/51/542, annex I), and in 1997 to the Permanent Missions of Greece, India and the Sudan (A/52/477/Add.1), to obtain their comments and any information on actions undertaken or planned by the authorities concerned to implement the Special Rapporteur's recommendations.

13. The Chinese authorities replied in 1996 (A/51/42, annex II) and the Pakistan authorities in 1997 (A/52/477/Add.1). The Sudan also replied very quickly, and it should be noted that cooperation has been excellent since the Special Rapporteur's visit to that country (ibid), a fact which should be emphasized and applauded.

14. The Iranian authorities have not sent any replies since 1996 but have always cooperated with the Special Rapporteur, specifically in several rounds of consultations in Geneva. During the most recent consultations, in August 1997, and following the presidential elections in the Islamic Republic of Iran, the Special Rapporteur has had the feeling that cooperation with that country on the follow-up procedure could soon get under way.

15. The Special Rapporteur has also received cooperation from Greece and India and awaits their replies to his follow-up letter.

16. The Special Rapporteur wishes to thank all States concerned for their favourable reactions to the follow-up procedure begun in 1996, and particularly those which have responded formally.

17. Lastly, the Special Rapporteur calls on all States to accede, pursuant to the resolutions of the Commission on Human Rights and the General Assembly to requests for visits and for follow-up to those visits.

III. DEVELOPMENT OF A CULTURE OF TOLERANCE

18. Education can make a decisive contribution to the internalization of values based on human rights and to the emergence among both individuals and groups of tolerant and non-discriminatory attitudes and behaviour. It thus contributes to the dissemination of a culture of human rights.

19. As an essential component of the educational system, schools can provide a fertile and vital environment for lasting progress in the promotion of tolerance and non-discrimination in matters of religion or belief.

20. The Special Rapporteur therefore decided to conduct a survey in 1994 by means of a questionnaire addressed to States on problems relating to freedom of religion and belief from the standpoint of the curricula and textbooks of primary or basic and secondary educational institutions.⁸ The results of the survey would make it possible to draw up an international school strategy to combat all forms of intolerance and discrimination based on religion or belief, which could centre on the elaboration and implementation of a common minimum programme of tolerance and non-discrimination.

21. The Special Rapporteur received replies from the following 79 States: Albania, Algeria, Andorra, Argentina, Armenia, Austria, Bahrain, Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cuba, Cyprus, Denmark, Djibouti, Ecuador, Egypt, France, Germany, Guatemala, the Holy See, Honduras, India, Indonesia, Iraq, Ireland, Israel, Italy, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Luxembourg, Mali, the Marshall Islands, Mauritius, Mexico, Morocco, Namibia, Nauru, the Netherlands, New Zealand, Nicaragua, Niger, Norway, Oman, Pakistan, Paraguay, the Philippines, Portugal, the Republic of Korea, Romania, Saint Lucia, San Marino, Senegal, Singapore, Slovakia, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay, Venezuela, Viet Nam, Yugoslavia and Zambia.

22. Recalling Commission on Human Rights resolution 1994/18, which encouraged the Special Rapporteur to examine the contribution that education could make to the more effective promotion of religious tolerance, and Commission resolutions 1995/23 and 1996/23 and General Assembly resolution 50/183, which stressed the importance of education in inculcating tolerance in matters of religion and belief, the Special Rapporteur deplores the lack of financial and human resources available to him to implement these resolutions.

23. Once again he urges the Office of the United Nations High Commissioner for Human Rights to show a real willingness to make a minimum of resources available for the religious intolerance mandate, so that the voluminous information received from the States listed above can eventually, once the current processing is completed, be analysed and put to use for their intended purpose.

IV. STATUS OF COMMUNICATIONS SENT SINCE THE FIFTY-THIRD SESSION OF THE COMMISSION ON HUMAN RIGHTS

24. This report on the status of communications and replies concerns communications sent since the fifty-third session of the Commission on Human Rights, the replies or absence of replies from States and late replies.

25. Since the fifty-third session of the Commission, the Special Rapporteur has addressed communications to 48 States: Afghanistan, Albania, Angola, Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, China (3), the Comoros, the Czech Republic, Egypt, Gabon, Georgia, Greece, India, Islamic Republic of Iran, Iraq (2), Israel, Kuwait, Latvia, Mauritania, Mongolia, Mozambique, Myanmar, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Portugal, Qatar, Romania, the Russian Federation (2), Singapore, Slovakia (2), Somalia, the Sudan, Switzerland, Thailand, Trinidad and Tobago, Turkey, the United Arab Emirates, Uzbekistan, Viet Nam and Yemen.

26. Among these communications, urgent appeals were addressed to China and the United Arab Emirates. The urgent appeal addressed to China was a call for information regarding the detention of Yulo Dawa Tsering, a Tibetan monk, whom the Special Rapporteur had consulted during his visit to China in 1995.⁹ The Chinese Government replied as follows:

"Mr. Yulo Dawa Tsering, aged 66, from the Dazi county (Lhasa) is a bonze at the Garden Temple in Lhasa (Tibet). In 1959, he was sentenced to life imprisonment for having participated in rebel movements, but was granted a special pardon in 1979. In 1987 he was sentenced to 10 years' imprisonment for incitement to acts of subversion aimed at overthrowing the Government and dividing the nation. He was paroled for good behaviour on 6 November 1994 (his parole lasted until 15 December 1995). The local area committee helped him to find work. Now that his parole is over, Mr. Yulo enjoys all the civil rights set forth in the Chinese Constitution. He is in good health and lives in good conditions. The Special Rapporteur's letter states that Mr. Yulo is currently under house arrest and deprived of his right to freedom of movement, expression and religion. That is not true."

27. The urgent appeal addressed to the United Arab Emirates was likewise a reminder, concerning the case of Mr. Elie Dib Ghalib, a Christian who was arrested and allegedly subjected to ill-treatment because he had married a Muslim. On 29 October 1996 a court declared his marriage null and void and sentenced Mr. Ghalib to 39 lashes and a year's imprisonment for immoral marital relations. The United Arab Emirates replied that the trial had been conducted in accordance with the provisions of the Shariah and the law and stated that "all are equal before the Shariah, the Constitution and the law" and that there had been no discrimination on the grounds of belief or nationality.

28. Based on the analysis of the communications, the following is a very general classification of the communities which have allegedly been the victims of violations of religious freedom:

(a) Christianity: Afghanistan, Angola, Armenia, Azerbaijan, Bosnia and Herzegovina, China, Egypt, Georgia, India, Iraq, Mozambique, Myanmar, Nepal, Qatar, Pakistan, Romania, the Sudan, Trinidad and Tobago, Turkey, the United Arab Emirates and Uzbekistan;

(b) Islam: Afghanistan, Azerbaijan, Bosnia and Herzegovina, Greece, Iraq, Qatar and Uzbekistan;

(c) Buddhism: China and Viet Nam;

(d) Other religions, religious groups and religious communities:

(i) Ahmadis: Pakistan;

(ii) Baha'is: Iran;

(iii) Jehovah's Witnesses: Armenia, Bulgaria, Gabon, Georgia, Latvia, Romania, Singapore and Slovakia;

(iv) Hare Krishna: Armenia;

(v) All religions, all religious groups and religious communities except the official or State religion or the predominant religion: Brunei Darussalam, the Comoros, Israel, Kuwait, Mauritania, Nicaragua, Oman, the Russian Federation, Somalia, Thailand and Yemen;

(vi) All religions, all religious groups and religious communities: Nigeria.

29. On the basis of an analysis by topic, the communications can be divided into six categories.

30. The first category concerns violations of the principles of non-discrimination in matters of religion and belief:

(a) It involves allegations concerning discriminatory policies and/or legislation in regard to religion and belief:

- (i) In Myanmar, Christians from the state of Chin are alleged to be victims of a discriminatory policy;
 - (ii) In the Russian Federation, provincial legislation and regulations are said to impose restrictions on the activities of religious minorities. Similarly, reports suggest that without President B. N. Yeltsin's veto, the adoption of the "Law on Freedom of Conscience and on Religious Associations" on 23 June 1997 would have undermined the official recognition of religious groups and religious communities not belonging to the Russian Orthodox Church and restricted their activities. However, it is important to note that this law was definitively adopted in September 1997;
 - (iii) In Kuwait, citizenship is allegedly denied to non-Muslims;
 - (iv) In Brunei Darussalam, the Comoros, Kuwait, Mauritania, Oman, Qatar, Somalia, Uzbekistan and Yemen, non-Muslims are said to face a number of religious restrictions (see (d) below);
- (b) Other examples of violations of the principle of non-discrimination are found in allegations concerning refusal to grant official recognition to certain religious groups and religious communities (Azerbaijan, Georgia, Latvia and Uzbekistan);
- (c) There are also reports of legal bans against certain religious groups and religious communities, particularly in the case of the Jehovah's Witnesses in Gabon and Indonesia;
- (d) In Thailand, the textbooks in public schools allegedly provide information on Buddhism only, and thus do not reflect the diversity of religious sensitivities and affiliations in the country. Certain public schools in some cantons of Switzerland are said to run courses on the Church of Scientology in which it is described as a sect. Parents belonging to that Church are said to have wished to opt for private education, but to have been refused permission to establish a private school.

31. The second category concerns violations of the principle of tolerance in matters of religion and belief:

- (a) In Afghanistan, the extremism of the Taliban afflicts the whole of society through all its religious components, whether Muslim or non-Muslim. Some categories of persons may be more affected than others:
- (i) In Afghanistan, women are among those who suffer the most, because of severe restrictions on their education and employment as well as the obligation to wear what is described as Islamic dress;
 - (ii) In certain regions of India and Nepal, there have been reports of incidents of intolerance against Christians and Christian converts;
 - (iii) In Iraq, Christians can be killed if an imam issues a fatwa to this effect;

(b) In Azerbaijan and Bulgaria, a climate of intolerance may adversely affect certain religious minorities and religious communities (Christian communities in Azerbaijan and the Jehovah's Witnesses in Bulgaria). In Georgia, the Orthodox Church is said to try to restrict the activities of other Christian organizations, while Romania is said to be hostile to members of the Greek Orthodox Church and to the Jehovah's Witnesses. In Nicaragua, there is allegedly a campaign by the Catholic Church to introduce Catholic textbooks in public schools. These textbooks would appear to preach a message of intolerance towards other religions.

32. It is important to remember that religious intolerance and religious extremism of any kind can occur both within a religion and between religions.

33. The third category concerns violations of freedom of thought, conscience and religion or belief:

(a) The question of conscientious objection is raised directly:

- (i) In Albania the legislation does not provide for alternative service or other forms of unarmed national service for conscientious objectors, who may be subject to judicial proceedings, fines and imprisonment. Exemption from military service may be granted in return for monetary payment, which is a discriminatory measure;
- (ii) In Belarus and Mongolia, the law does not provide for an alternative to military service;
- (iii) In Austria, Portugal, the Czech Republic and Slovakia, there is a legal time limit within which conscientious objectors must declare their refusal to undertake military service or apply to do non-military national service;
- (iv) In Austria, Portugal, Macedonia and Slovakia, the duration of alternative service is such as to make it appear a form of punishment;
- (v) In Slovakia, there have been reports of conscientious objectors being sent to prison;

(b) The freedom to change one's religion is also being violated:

- (i) In Qatar and Kuwait, the conversion of a Muslim to another religion is strictly prohibited and is punishable by death (Kuwait);
- (ii) In India and Israel, draft laws banning conversion have been drawn up;
- (iii) In Egypt, a Muslim who converted to Christianity was arrested and was allegedly interrogated to force him to provide information about the activities of converts;
- (iv) In India, a Hindu who converted to Christianity is said to have been attacked by Hindu extremists.

- (v) In Iraq, a young Christian woman was reportedly forced to marry a Muslim and convert to Islam;
 - (vi) In Myanmar, there are reports that the army has tried to conduct campaigns to convert Christians in the state of Chin to Buddhism. In one monastery, children are said to have been forced to repeat Buddhist prayers every day and some parents are said to have been paid sums of money in exchange;
- (c) The fourth category concerns violations of the freedom to manifest one's religion or belief:
- (i) In Afghanistan, Azerbaijan, Bulgaria, China, Mozambique, Myanmar, Nigeria, the Russian Federation, Turkey and Uzbekistan, there are allegations that the authorities have imposed controls on or interfered illegally with the religious activities of all or certain religious groups or religious communities;
 - (ii) In Georgia and Romania, the national Orthodox Church is said to have tried to restrict the activities of other religions and religious groups and religious communities;
 - (iii) In Brunei Darussalam, the Comoros, Kuwait, Mauritania, Oman, Qatar, Somalia and Yemen, proselytizing by non-Muslims aimed at Muslims is said to be forbidden. In Azerbaijan, there is reportedly a law forbidding all forms of proselytizing by non-nationals. In Bulgaria, Jehovah's Witnesses are said to have been expelled, arrested, detained, mistreated or convicted because of their proselytizing work;
 - (iv) In Kuwait, Oman, Uzbekistan and Yemen, the publication of non-Muslim religious material is said to be prohibited, while the importation of such material is forbidden in Brunei Darussalam. In Nigeria, the broadcasting of religious programmes and listening to religious cassettes are said to be prohibited and punishable by imprisonment. In Mauritania, Christians have allegedly been harassed or even arrested for distributing Christian literature outside of their community;
 - (v) In Brunei Darussalam, the authorities are said to have imposed restrictions on the teaching of the history of religions and other subjects related to religion in non-Muslim educational institutions, and to require that Islam be taught there. In Armenia, permission for a teacher to provide religious instruction is said to depend on the approval of the national Orthodox Church;
 - (vi) In Afghanistan, non-Muslims are allegedly unable to practise their religion freely and Muslims are said to be forced to attend Friday prayer at the mosque. In Qatar and Kuwait, non-Muslims reportedly have to restrict the practice of their religion to the confines of their own homes.

34. The fifth category concerns violations of the freedom to dispose of religious property:

(a) In Brunei Darussalam and Kuwait, the authorities are said to have refused permission to build, enlarge or renovate non-Muslim places of worship. In Pakistan, a court allegedly transferred ownership of an Ahmadi place of worship to non-Ahmadis, while in Myanmar, construction of a church was stopped by the authorities despite the fact that a construction permit had been obtained. In Greece, a Muslim religious leader was purportedly taken to court and then released after being accused of illegally building a mosque. In Azerbaijan, Christians were reportedly driven from the establishments where they were carrying out religious activities. In Georgia and Azerbaijan, Armenian Orthodox churches are said to have been closed. In Azerbaijan and the Russian Federation, religious minorities are reportedly having difficulty renting rooms to be used as places of worship. In Bulgaria, in one city, Jehovah's Witnesses are apparently banned from renting buildings. In Bosnia and Herzegovina and in Nepal, places of worship are said to have been attacked and even destroyed. In Pakistan, in Karachi, peaceful demonstrations by Christians protesting against the destruction of Christian properties including churches were allegedly suppressed by the police. In Romania and Georgia, the problem of restitution of goods and properties confiscated under the former regime has been raised;

(b) In Turkey, a municipality is said to have decided to expropriate part of a Christian cemetery in order to widen a road despite opposition by a Christian church. Some graves were apparently profaned during that operation;

(c) In the Sudan, Christian schools have reportedly been bulldozed;

(d) In Georgia and in Singapore, Jehovah's Witness literature has allegedly been confiscated. In Uzbekistan, the authorities are said to have confiscated Bibles. In Nepal, Christian religious material has apparently been destroyed by Hindus. In Singapore, Jehovah's Witnesses have allegedly been penalized for possession of their banned literature.

35. The sixth category concerns violations of the right to life, physical integrity and health of persons (clergy and believers).

36. There have been reports of many cases of harassment and threats (Azerbaijan, Romania and Uzbekistan); of mistreatment (Afghanistan, Bulgaria, Islamic Republic of Iran, Pakistan, Romania, United Arab Emirates, Uzbekistan); of arrests and detentions (Angola, Bulgaria, China, Islamic Republic of Iran, Pakistan, Uzbekistan and Viet Nam) and even of disappearances (China, the Russian Federation and Uzbekistan) and murders (the Islamic Republic of Iran, Iraq and Pakistan). In the case of China in particular, besides the urgent appeal, communications have been sent concerning the situation of Ghedun Nyimo, eight years old and recognized by the Dalai Lama as the eleventh reincarnation of the Panchen Lama, as well as allegations of prison sentences for "conspiring to split the country" and "leaking State secrets" imposed on Chadrel Rinpoche (a Tibetan monk), his assistant Champa Churg and another Tibetan named Samdrup who allegedly communicated with the Dalai Lama during the search for the child reincarnation of the Panchen Lama. In the case of Iraq, there have been allegations that the security forces have attacked Shiite pilgrims in Karbala'

and that two Assyro-Chaldeans suspected without proof of murdering a Muslim who abducted their daughter or sister and forced her to marry him and convert to Islam, were murdered. The two Christians were reportedly detained and tortured to death by a crowd following a fatwa from an imam calling for such actions. In the case of Viet Nam, a communication was sent concerning the three bonzes Thich Tri Tuu, Thich Mai Chanh and Thich Hai Thinh, who are said to be under house arrest.

37. With regard to replies of States to communications other than urgent appeals, the deadline had not expired for 20 States at the time when this report was written: Afghanistan, Albania, Armenia, Austria, Azerbaijan, Belarus, China, the Islamic Republic of Iran, Iraq, the former Yugoslav Republic of Macedonia, Mongolia, Nepal, Nicaragua, Pakistan, Portugal, the Russian Federation, Singapore, Slovakia, the Czech Republic and Trinidad and Tobago.

38. Of the 33 States for which the deadline has expired (Angola, Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, the Comoros, China (2), Egypt, United Arab Emirates, Gabon, Georgia, Greece, India, Iraq, Israel, Kuwait, Latvia, Mauritania, Mozambique, Myanmar, Nigeria, Oman, Qatar, Romania, the Russian Federation, Slovakia, Somalia, Sudan, Switzerland, Thailand, Turkey, Uzbekistan, Viet Nam and Yemen), eight States have replied (China - see the list of replies to urgent appeals given above - Greece, Israel, Oman, Romania (2), Switzerland, United Arab Emirates and Viet Nam).

39. With reference to the content of replies, Greece, in response to a communication summarized under the fifth category of violations, explained that construction work on the mosque in the village of Kimmeria (Xanthi) had been interrupted for the reason that

"The extended basement as well as the minaret of the mosque were not included in the approved construction licence by the competent authorities. The Greek State enforced the law by taking the necessary steps to stop arbitrary construction works. However, after the issuance of a new revised licence, the construction work could start again in conformity with the law ... Yet until today, no application for such a revised construction licence has been submitted to the relevant authorities for approval by those interested in continuing the building".

40. Israel, replying to a communication on a draft law banning religious conversion, stated that since the sources of information had not been identified, the allegations were vague and the law in question was only a draft, the request by the Special Rapporteur was neither appropriate nor necessary. The Special Rapporteur informed the Permanent Mission of Israel to the United Nations Office at Geneva that his sources of information always remained confidential and that any allegation was based on more than one source of information. He invites Israel to cooperate more fully with a view to better protecting religious freedom.

41. Oman, replying to a communication summarized under the first and fifth categories of violations, pointed out that its legislation guaranteed freedom of religion and "religious observance".

42. Romania, in reply to a communication summarized under the second, fourth, fifth and sixth categories of violations, explained its policy on democratization and respect for the law, including in the area of religion.

"Resolute measures have been taken by the Government of Romania, both at the administrative and legislative levels, to overcome past injustices and to guarantee the freedom of religion, as enshrined in the 1991 democratic Constitution of Romania and in European and international human rights instruments to which the country is a party".

Referring to the situation of the Greek Catholic church, the Romanian authorities stated that the process of restitution of properties confiscated under the former regime had been accelerated.

"The Upper Chamber of the parliament of Romania - the Senate - has passed new legislation on 12 June 1997 providing that the Greek Catholic Church is to be given back one church building in each locality in which the Orthodox Church has several church buildings and there are local residents of Greek Catholic denomination".

The authorities also stated that they were taking the necessary measures in relation to all displays of intolerance. With regard to the Jehovah's Witnesses, the authorities recalled that they were recognized by law and that their activities were protected against any act violating human rights. The Government's Department of Religious Affairs in fact adopted on 30 April 1997 "an order addressed to all local public authorities, that recognized their full entitlement to have or build their own administrative buildings or places of worship".

43. The Special Rapporteur wishes to thank the Romanian authorities in particular for their very detailed replies, especially the second reply, which included a first part entitled "Implementation of the 1981 Declaration" referring to the "Constitution of Romania" and the "internal regulatory framework governing the question of religion"; a second part entitled "The contribution of education to more effective promotion of religious tolerance", and a third part entitled "Allegations of intolerance by the Orthodox clergy towards religious minorities: Greek Catholics and Jehovah's Witnesses".

44. Switzerland, in reply to a communication summarized under the first category of violations, demonstrated in a careful review, especially of cantonal and federal court decisions, that the members of the Church of Scientology were not treated in a discriminatory manner in comparison with other religious communities, particularly in the area of public and private education. Furthermore, it emphasized that adequate legal means existed at the federal and cantonal levels, through which the representatives of the Church of Scientology had been able to secure enforcement of the rights they were claiming.

45. Viet Nam, in reply to a communication summarized under the sixth category of violations, said that Le Quang Vinh (Thich Tri Tu), Nguyen Chon Tam (Thich Hai Chanh) and Phu Thinh (Thich Hai Thinh) had been released and could freely carry on their religious activities.

46. The Special Rapporteur addressed reminders to States that had not replied to communications addressed to them in connection with the fifty-third session of the Commission on Human Rights: Albania, Algeria, Bolivia, Chad, Eritrea, Georgia, Greece, Israel, Lebanon, Malaysia, Maldives, Moldova, Nigeria, Pakistan, Saudi Arabia, Singapore, Somalia, Tajikistan, the United States of America, Viet Nam and Yemen.

47. Saudi Arabia replied that the Government of the Kingdom respected and valued religious freedom in accordance with its laws. It specified that it was not opposed to non-Muslims practising their religion in their homes. In addition to being guaranteed freedom in private life and the inviolability of their homes, under article 37 of the Constitution Christians have, according to the authorities, the same status of all other residents of the Kingdom, Muslim or otherwise. Islam commands that the people of the Book should be treated with justice and probity, and they are on an equal footing with Muslims as to the rights and duties that stem from the social order, in keeping with the Islamic doctrine that "their rights are the same as our rights and their responsibilities are the same as our responsibilities". As for the Shiites, the authorities maintain that nothing in the Shariah or in the Constitution establishes any distinction between Shiites and non-Shiites. The absence of any discriminatory practice against Shiites was likewise emphasized, as was the fact that the State punished any departure from this policy by isolated individuals. Regarding the allegation that the wearing of the turban during prayers was prohibited, the reply was that it would be inconceivable for the Government of the Kingdom to forbid following the example of the Prophet himself. Lastly, the allegations of discrimination in educational matters by Sunni Muslims were refuted.

48. The Special Rapporteur thanks the Saudi Arabian authorities for their detailed and closely reasoned reply and attaches the highest importance to their firm intention to cooperate with him and with all the human rights bodies. Their intention deserves to be noted and warmly welcomed.

49. Bolivia explained that, in legal terms, the procedure for registering non-Catholic religious organizations was not long and costly. It also refuted the allegation that the holding of non-Catholic religious services was forbidden in the army.

50. Malaysia stated that all persons who had belonged to the Al Arqam movement,¹⁰ now banned, had been released and had asked the Government to help them to counteract the aberrant teachings spread by that movement.

51. Regarding late replies received after the report to the fifty-third session of the Commission on Human Rights was completed but before the letters of reminder were sent, the States involved were Burundi, China, Cyprus, Ethiopia, Greece, the Islamic Republic of Iran, Japan, Nepal, Turkey and Yugoslavia.

52. Burundi explained that many of the murders of religious had had nothing to do with religious intolerance.

53. China recalled that its legislation and policy guaranteed the protection of freedom of religion. It stated that

"All religious organizations in China operate independently, are autonomous and disseminate their teachings, and resist any outside effort to direct their internal affairs or interfere with them, so that Chinese citizens enjoy guaranteed freedom of religion".

On the subject of the allegations relating to places of worship, the authorities explained that in Shanghai in particular, the bodies responsible for religious affairs had begun to register all places of worship and that the security services had searched and closed some premises where nefarious beliefs were being taught. The allegations regarding the closing of premises where religious instruction was provided were refuted. Buildings were said to have been destroyed in the town of Wenzhou because they were not in compliance with the regulations. The Chinese authorities also accused the Dalai Lama of agitating for the independence of Tibet and, with reference to the allegations that monks had been arrested and that a monk from the temple of Ganden had even been killed, they maintained that the monks had attacked government officials and destroyed a police station.

54. Cyprus stated that Salih Askerogul, a Turkish Cypriot who had been condemned to three years' imprisonment for conscientious objection, released after serving three quarters of his sentence and then detained again for 24 hours on an arrest warrant to which he had objected, had been awarded financial compensation and that the case was closed.

55. Ethiopia, in reply to a communication alleging religious intolerance against the Lutheran Church "Mekane Vesus", recalled that its Constitution guaranteed freedom of religion and freedom to practise one's religion. The Ethiopian authorities refuted the allegations that "Mekane Vesus", which was recognized as a legal person under Ethiopian law, had been classified as a sect, and also the allegations that the Church's religious leaders had been arrested. Attention was drawn to the problem of differences between Orthodox believers and Protestants, a problem the Government claimed to be addressing by way of human rights programmes.

56. Greece stated that Joannes Giantzaklides had been exempted from military service as a Seventh-Day Adventist minister, in accordance with article 6 of Act No. 1763/88.

57. The Islamic Republic of Iran, replying to allegations concerning the deaths of Christian religious leaders, provided statements by the Assyro-Chaldean churches urging that those events not be exploited politically with a view to discrediting the Islamic Republic of Iran, and stating that the perpetrators of the murders had confessed to the crimes.

58. Japan, replying to a communication alleging that the Subversive Organization Law had been applied against the organization known as the Supreme Religious Group and that the Law was generally having a detrimental impact on religious minorities, explained that the legislation in question allowed control measures such as the restriction of activities or the dissolution of organizations only when the strict conditions provided for by the law were met, namely, the need to defend public health against subversive terrorist activities. The Japanese authorities stated that investigation had shown that

the conditions for applying the law had been met in the case of the "Aum Supreme Truth" group, which had been responsible for terrorist acts such as the diffusion of Sarin gas.

59. In response to a communication alleging that a law forbidding proselytism had been adopted, Nepal stated that there was full freedom of religion, and sent a copy of article 19 of its Constitution stipulating that

"Every person shall have the freedom to profess and practice his own religion as handed down to him from ancient times, having due regard to traditional practices, provided that no person shall be entitled to convert another person from one religion to another".

60. Turkey stated that non-Muslim minorities enjoyed the rights guaranteed by the Treaty of Lausanne and the Turkish Constitution (arts. 10 and 24). Concerning alleged attacks against non-Muslim places of worship, the authorities indicated that investigations were under way in order to bring those responsible to justice, but that in any event it was a matter of isolated cases. The allegation that properties belonging to the Armenian Church on Kizil Andau (Prince's Island) had been confiscated was not confirmed by the authorities. Regarding the Halki Theological School, it was recalled that in 1971 its status had been modified:

"The Halki Theological School for High Religious Education then became devoid of any legal foundation and had to be incorporated into another appropriate institution operated by the State. As no such institution existed, it was no longer possible for the academy-level division of the Halki Theological School to continue its activities."

Furthermore, the allegation concerning religious discrimination against the Alawites was refuted. Regarding the events of July 1993 which had led to the death of 37 Alawites, it was stated that they had actually involved premeditated provocations by agitators seeking to create a climate of terror in Turkey.

61. Yugoslavia, replying to a communication alleging that conscientious objectors had been convicted and the Jehovah's Witnesses subjected to intolerance, gave a detailed outline of its legal provisions guaranteeing freedom of religion, especially for the different religious communities in the country. It emphasized that intra-religious tolerance was satisfactory, despite a few isolated incidents.

V. CONCLUSIONS AND RECOMMENDATIONS

62. The Special Rapporteur wished to formulate conclusions and recommendations on the status of communications and on certain aspects of religious freedom and the protection and promotion of that freedom, as well as on the strengthening of the Special Rapporteur's mandate.

A. Aspects of freedom of religion and belief

1. Right to have, manifest and practise the religion or belief of one's choice

63. With reference to the six categories of violations resulting from the analysis of the communications by topic (see chap. IV), the Special Rapporteur wishes to draw attention to the following.

64. Article 1, paragraph 1, of the 1981 Declaration defines the right to freedom of thought, conscience and religion as including freedom to have a religion or whatever belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. Article 1, paragraph 2, adds that no one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. Paragraph 3 of the same article subjects the freedom to manifest one's religion or belief only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. The Special Rapporteur also wishes to recall general comment No. 22 (48) adopted on 20 July 1993 by the Human Rights Committee concerning article 18 of the International Covenant on Civil and Political Rights, which deals with freedom of thought, conscience and religion. In its comment, the Committee considers that restrictions on the freedom to manifest religion or belief are permissible only if they are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience or religion.

65. Article 6 of the 1981 Declaration lists various freedoms which, inter alia, are implied in the right to freedom of thought, conscience, religion or belief, namely: freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes (see, in particular, the fifth category, which deals with violations of the freedom to dispose of religious property); freedom to establish and maintain appropriate charitable or humanitarian institutions (ibid.); freedom to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief (see the fourth category, which concerns violations of the right to manifest one's religion or belief, fifth category); freedom to write, issue and disseminate relevant publications in these areas (ibid.); freedom to teach a religion or belief in places suitable for these purposes (see the first category, which deals with violations of the principle of non-discrimination in religion and belief, fourth and fifth categories); freedom to solicit and receive voluntary financial and other contributions from individuals and institutions; freedom to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief (see the sixth category, which concerns violations of the right to life, physical integrity and health); freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief (see the second category, which concerns violations of the principle of tolerance in the area of religion and belief, fourth and fifth categories); and freedom to establish and maintain communications with

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individuals and communities in matters of religion or belief at the national and international levels (see the sixth category).

2. Right to change one's religion

66. Referring mainly to the third category of violations and tangentially to the second category of violations (India and Nepal), the Special Rapporteur wishes to make the following comments on the right to change one's religion.

67. Article 18 of the Universal Declaration of Human Rights sets forth the principle according to which everyone has the right to freedom of thought, conscience and religion and states clearly that this right includes freedom to change one's religion or belief and freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance.

68. While the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights are a direct continuation of the Universal Declaration, they do not refer explicitly to the right to change one's religion.

69. Article 18 of the Covenant recognizes in a general way the freedom to have or to adopt a religion of one's choice. The 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief also affirms in a general manner the freedom to have a religion or whatever belief of one's choice. Like the Covenant, the Declaration does not refer formally or explicitly to the freedom to change one's religion, although this should not be understood as an expression of the wish to dilute the content of the provisions of the Universal Declaration.

70. The Vienna World Conference on Human Rights, while recognizing concerns about specific circumstances and calling upon national legislations, strongly affirmed the universality of human rights.

71. The formal variations that surrounded the recognition and development of religious freedom cannot lead to a failure to recognize the right to change one's religion.

72. Lastly, there are many variations on a single theme that have called into question the foundations of religious freedom and have bolstered the position of those who believe that religious freedom cannot include recognition of the right to change one's religion.

73. It is today acknowledged that religious freedom is inseparable from the freedom to change one's religion.

74. As early as 1986, Elisabeth Odio Bénito wrote that, while the provisions of the 1948 and 1981 Declarations and of the Covenant were worded differently, they all had the same ultimate objective, namely, that any person had the right to renounce a religion or belief and adopt another or adopt none at all. That was, she added, the implicit meaning of the concept of the right to freedom of

thought, conscience, religion and belief, irrespective of the form in which this concept was expressed.

75. In its general comment No. 22 (48) on article 18 of the Covenant, adopted on 20 July 1993, the Human Rights Committee comes to the same conclusion. The Committee observes that the freedom to have or to adopt a religion or a belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief.

76. The Special Rapporteur therefore wishes to stress, once again, that religious freedom includes the right to change one's religion, which is a legally necessary dimension of that freedom.

3. The right of conscientious objection

77. With regard to the third category of violations, the Special Rapporteur wishes to stress that the right of conscientious objection is a right which is closely linked with freedom of religion.

78. The Special Rapporteur considers it necessary to remind States of Commission on Human Rights resolution 1989/59, reaffirmed several times, which recognizes the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights. The Commission therefore recommends to States with a system of compulsory military service, where such provision has not already been made, that they introduce for conscientious objectors various forms of alternative service which should be in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature. In its resolution 1984/93 on conscientious objection to military service, the Commission on Human Rights also called for minimum guarantees to ensure that conscientious objection status can be applied for at any time.

B. Protection and promotion of freedom of religion and belief

1. Legislation and freedom of religion and belief

79. With reference primarily to the first category of violations, and secondarily to the third and fourth categories of violations, the Special Rapporteur wishes to note the following.

80. Article 2 of the 1981 Declaration prohibits discrimination against anyone, by any State, institution, group of persons or person, on the grounds of religion or belief. Intolerance and discrimination based on religion or belief are defined in the Declaration as any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

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81. Article 4 of the Declaration provides that States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or belief in this matter.

82. The Special Rapporteur also wishes to note that the General Assembly, in resolution 51/93, and the Commission on Human Rights, in resolution 1997/18, urged States to establish adequate and effective constitutional and legal guarantees to ensure to all, without discrimination, freedom of thought, conscience, religion and belief, including the provision of effective remedies in cases where the right to freedom of religion or belief is violated.

83. In this context, the Special Rapporteur had already sent a note verbale to all States in 1994 drawing their attention to Commission on Human Rights resolution 1994/18 relating to his mandate and inviting them to communicate all new information within the framework of that mandate and any other observations they might wish to make in that regard. Replies from several Governments referred in particular to the relevant constitutions, laws and regulations.¹¹

84. The Special Rapporteur will make another request to States in the near future with a view to obtaining, for the purposes of analysis, taking into consideration the 1981 Declaration, the text of the constitution in force or any other text taking the place of the constitution and the texts of laws and regulations regarding freedom of religion and worship.

2. Other issues

85. The Special Rapporteur once again wishes to stress the importance of an inter-faith dialogue in order to combat all extremism, whatever religion is invoked, and ensure religious tolerance both internationally and within States.

86. The establishment of firm foundations for religious tolerance and hence for the protection and promotion of freedom of religion and belief will also require specific action in the sphere of education, as described in chapter III of this report. It is essential not simply to control intolerance and discrimination based on religion or belief but to prevent them by developing a culture of tolerance through an international school strategy to combat all forms of discrimination based on religion or belief.

87. The communications sent out by the Special Rapporteur, especially the communication concerning Afghanistan, raise the question of women and religion. The Special Rapporteur wishes to stress that the Commission on Human Rights, in its resolution 1997/18, "urged States, in conformity with international standards of human rights, to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion, including practices which violate the human rights of women and discriminate against women. The Commission also stressed the need for the Special Rapporteur to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations".

88. The Commission on Human Rights, in its resolution 1997/43 of 11 April 1997 entitled "Integrating the human rights of women throughout the United Nations" also encouraged the strengthening of cooperation and coordination among all human rights treaty bodies, special rapporteurs, special procedures and other human rights mechanisms of the Commission and the Subcommission on Prevention of Discrimination and Protection of Minorities, and requested that they regularly and systematically take a gender perspective into account in the implementation of their mandates, including information and qualitative analysis in their reports on violations of the human rights of women.

89. This year, the communications concerning women related to Afghanistan, Indonesia and Iraq. In order to obtain more information, and in particular sources of information on the question "women and religion", especially women victims of intolerance and discrimination based on religion and belief, and to contribute to the promotion of the rights of women, the Special Rapporteur intends to pay particular attention in future to the status of women from the perspective of religion and hopes to receive cooperation from States and non-governmental organizations in this respect.

C. Strengthening of the mandate of the Special Rapporteur

90. As indicated in previous reports, an increase in the human, financial and technological resources assigned to the mandate is essential both to ensure the credibility of the activities of the Special Rapporteur and the United Nations and for the sake of human rights.

91. The initiatives taken by States, intergovernmental organizations and non-governmental organizations in the sphere of freedom of religion and belief make a useful contribution to the implementation of the mandate on religious freedom.

92. The Special Rapporteur emphasizes the development of initiatives and activities that help, directly or indirectly, to protect and/or promote religious freedom and to combat all forms of discrimination and intolerance based on religion and belief. In that connection, he wishes to single out not only the activities relating to research and publications, but also the contribution made by computerized scientific networks to the protection and promotion of religious freedoms.

93. Lastly, the Special Rapporteur wishes to thank the States, non-governmental organizations and individuals acting in a personal capacity that have participated in various ways in the activities relating to the mandate.

Notes

¹ E/CN.4/1987/35.

² E/CN.4/1988/45 and Add.1, E/CN.4/1989/44, E/CN.4/1990/46, E/CN.4/1991/56, E/CN.4/1992/52 and E/CN.4/1993/62 and Corr.1 and Add.1.

³ E/CN.4/1994/79, E/CN.4/1995/91 and Add.1, E/CN.4/1996/95 and Add.1 and 2 and E/CN.4/1997/91.

⁴ E/CN.4/1995/91.

⁵ E/CN.4/1996/95/Add.1.

⁶ E/CN.4/1996/95/Add.2.

⁷ E/CN.4/1997/91/Add.1.

⁸ See E/CN.4/1995/91, annex I.

⁹ See E/CN.4/1995/91.

¹⁰ See E/CN.4/1997/91.

¹¹ See E/CN.4/1995/91/Add.1.



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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING
ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE
ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Elimination of All Forms of Religious Intolerance

Note by the Secretary-General

Addendum

The Secretary-General has the honour to transmit to the members of the General Assembly Addendum 1 to the interim report on the elimination of all forms of religious intolerance, prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 51/93 of 12 December 1996.



ANNEX

Addendum to the interim report on the elimination of all forms
of religious intolerance, prepared by the Special Rapporteur
of the Commission on Human Rights in accordance with General
Assembly resolution 51/93

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 3	3
II. FOLLOW-UP TABLES	4 - 5	3
A. Follow-up table addressed to the Greek authorities	4	3
B. Follow-up table addressed to the Indian authorities	5	7
III. REPLIES TO THE FOLLOW-UP TABLES	6 - 7	9
A. Reply of the Sudanese authorities	6	9
B. Reply of the Pakistan authorities	7	19

I. INTRODUCTION

1. In the context of the procedure for following up in situ visits (A/52/477), the Special Rapporteur of the Commission on Human Rights wished to publish in an addendum the recommendations addressed to the Greek and Indian authorities (section II) and the replies of the Sudanese and Pakistan authorities (section III).

2. The Special Rapporteur wishes to recall that in 1996 he addressed follow-up tables to the Chinese, Pakistan and Iranian authorities (A/51/542). The Chinese authorities replied in 1996 (ibid., annex II), while the reply of the Pakistan authorities was received this year and is reproduced in this addendum (section III.B). The Iranian authorities have not yet sent any reply.

3. In 1997, follow-up tables were sent to the Greek, Indian and Sudanese authorities and the recommendations are reproduced in this addendum. The Sudanese authorities replied very quickly - a fact which should be emphasized - and the reply is also included in this report (section III.A).

II. FOLLOW-UP TABLES

A. Follow-up table addressed to the Greek authorities

4. The Special Rapporteur addressed, in tabular form, a number of recommendations concerning legislation and policy, as well as general recommendations to the Greek authorities. At the same time, he invited them to indicate their comments, as well as measures undertaken and/or envisaged by their Government, in the space provided in the table. The recommendations of the Special Rapporteur are set out below.

1. Legislation

Taking into account, in particular, paragraph 134 of the report of visit,¹ removal of the legal prohibition against proselytism in the Necessity Acts is very strongly recommended. Failing this, proselytism could be defined in such a way as to leave appropriate leeway for the exercise of religious freedom, taking into account, inter alia, the decision of the European Court of Human Rights concerning the case Kokkinakis 25/05/93

Taking into account, in particular, paragraph 135 of the report of visit.¹ With regard to legislation governing places of worship, the Special Rapporteur is in favour of abolishing the Necessity Acts and elaborating a new law which would dispense with the need to seek the opinion of the Orthodox Church for the construction of places of worship and would confer on the State the competence to guarantee religious freedom, limited only by such restrictions as are internationally accepted

Taking into account, in particular, paragraph 136 of the report of visit.¹ With regard to the legislation on identity cards, which provides for mention to be made of the holder's religion, the Special Rapporteur recalls

the resolution of the European Parliament which considered this provision first, as a violation of the fundamental freedoms of the individual, particularly freedom of opinion and religious freedom, which are the exclusive province of the human conscience and, second, as a provision that should be abolished. The Special Rapporteur fully supports this resolution

Taking into account, in particular, paragraph 137 of the report of visit.¹ As regards the legislation governing conscientious objection, while acknowledging the efforts made by the Greek authorities, the Special Rapporteur recalls the relevant resolutions of the Commission on Human Rights and recommends the elaboration and adoption of legislation offering service of a non-combatant or civilian character, in the public interest and not of a punitive nature. In the event that a problem arises concerning constitutionality, particularly with regard to article 4, paragraphs 1 and 6, concerning the equality of all before the law and the contribution of citizens to the defence of their country, the Special Rapporteur recommends a revision of the Constitution in order to include a provision guaranteeing the right of conscientious objection

Taking into account, in particular, paragraph 138 of the report of visit.¹ As for the special provisions concerning Muslims and, more particularly, muftis and waqfs, the Special Rapporteur recalls article 6, subparagraph (g), of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,² which guarantees freedom to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief

Taking into account, in particular, paragraph 139 of the report of visit.¹ The Special Rapporteur believes it necessary for the Greek authorities to comply fully and in good faith with the Treaty of Lausanne and with the country's international undertakings. He also recalls the need to refrain from interfering in the affairs of a religion, apart from the restrictions provided for in international law, and calls for respect for the traditions of each religious group within the framework of internationally recognized norms

Taking into account, in particular, paragraph 140 of the report of visit.¹ The Special Rapporteur also emphasizes that the status of the Muslims of Thrace, and in particular that of the muftis and waqfs, should not be subordinated to considerations concerning Turkey, and strongly urges the parties involved to comply with their international undertakings, especially the Treaty of Lausanne

Regarding other legal issues, while noting the ratification by the Parliament of the International Covenant on Civil and Political Rights on 6 February 1997, the instrument of ratification is pending

2. Implementation of the legislation and policy in force

Taking into account paragraph 144 of the report of visit.¹ With regard to places of worship, the Christian minorities are encountering severe

difficulties in obtaining building permits because of the negative opinions frequently expressed by the Orthodox Church, which although not legally binding in practice are often binding on the authorities. The Necessity Acts are invoked in order to punish anyone responsible for illegal places of worship. Moreover, places of worship and religious objects have been the targets of sporadic attacks of vandalism

Taking into account, in particular, paragraph 151 of the report of visit.¹ With regard to the problems related to legal recognition, places of worship, proselytism and conscientious objection for the Christian minorities, the Special Rapporteur reiterates the recommendations he made with regard to the relevant legislation. Explicit legal recognition of the most important communities, including the Catholic and Anglican Churches, is recommended

Taking into account paragraph 153 of the report of visit.¹ With regard to the Jewish community, the Special Rapporteur reiterates his recommendation regarding the legislation concerning identity cards

Taking into account paragraph 154 of the report of visit.¹ As far as the Muslim minority in Thrace is concerned, the Special Rapporteur notes a static, unsatisfactory and prejudicial situation, especially in the religious sphere. The Muslim community in Thrace is beset with serious tensions and restrictions regarding the appointment of muftis, administration of wagfs and religious teachers. Priority should be given to satisfying the legitimate religious needs of the Muslims of Thrace, calming the present religious tensions and finding a way to defuse the situation that is acceptable to both the Orthodox and Muslim communities. To this end, the Special Rapporteur reiterates his previous comments and recommendations on the relevant legislation in this area

Taking into account paragraph 155 of the report of visit.¹ Regarding places of worship and cemeteries, the Special Rapporteur notes sporadic incidents of arson, vandalism and desecration which seem to be mostly acts of provocation and intolerance on the part of Muslim and Christian extremists. The Special Rapporteur condemns these isolated occurrences of religious extremism and reminds the State of its duty to guarantee the protection of places of worship and other religious sites

Taking into account paragraph 156 of the report of visit.¹ The Special Rapporteur also encourages the removal of obstacles to the construction of mosques and notes with satisfaction the financial assistance made available for repairs and renovations

Taking into account paragraph 157 of the report of visit.¹ With regard to education, the Special Rapporteur deplores the very low level of education among the Muslim minority in Thrace and welcomes the new legislation designed to make it easier for Muslim students to gain access to higher education. The Special Rapporteur expresses the hope that this targeted policy will be extended to all levels of education, including vocational training, thus ensuring that Thracian Muslims are no longer a disadvantaged and neglected group but will have the opportunity to integrate fully into

Greek society and acquire true citizenship, thereby opening up new intellectual and cultural horizons

Taking into account paragraph 158 of the report of visit.¹ Overall, the Special Rapporteur urges all parties concerned, official and otherwise, national and foreign, to calm rather than exacerbate religious problems, thereby ensuring that religion is not subject to political intrusion and exploitation and that constants are not affected by political variables. Such interference is detrimental to the religious rights of the Muslim community and, in a wider sense, to tolerance and efforts to stamp out discrimination based on religion and belief

3. General recommendations

Taking into account paragraph 159 of the report of visit.¹ The Special Rapporteur recommends that the State should involve representatives of human rights organizations and lay and religious representatives from all religious minorities and the Orthodox Church in its religious affairs policy on a consultative basis. Such cooperation should result in a coherent religious affairs policy focused on tolerance and non-discrimination, in line with the revised legislation and based on the principle of respect for the rights and freedoms of each religious community, regardless of whether it is a State religion or a minority religion

Taking into account paragraph 159 of the report of visit.¹ The State should also adopt and apply administrative, disciplinary, training and other measures in order to forestall and penalize any act of intolerance or discrimination on the part of the authorities, for example in matters having to do with access to administrative posts for members of religious minorities, permits for places of worship, respect in the school system for religious beliefs and convictions, and so forth

Taking into account paragraph 159 of the report of visit.¹ The Special Rapporteur believes that special efforts should be made to promote and develop a culture of tolerance and human rights. The Greek authorities could play an active role in increasing awareness of the values of tolerance and non-discrimination based on religion and belief. In this respect, the Special Rapporteur is firmly convinced that lasting progress could be made chiefly through education and especially through the schools by ensuring that school curricula, school textbooks and properly trained teachers disseminate a culture that promotes tolerance in the fields of religion and belief

Taking into account paragraph 159 of the report of visit.¹ Because he noted problems of intolerance and discrimination in the fields of administration of justice and the media, the Special Rapporteur believes that it would be appropriate to make use of the United Nations programme of advisory services in the field of human rights.³ Appropriate training of the personnel of the judicial system, the administration in general and the media in the areas of tolerance and non-discrimination based on religion and belief would be extremely useful

Taking into account paragraph 159 of the report of visit.² The Special Rapporteur also wishes to stress the importance of establishing a permanent interfaith dialogue between religious minorities and the Orthodox Church in order to combat all forms of intolerance and religious discrimination

Taking into account paragraph 159 of the report of visit.³ The Special Rapporteur reiterates the need to shield religious matters from political tensions and struggles so that religious freedom may express itself in characteristic contemplation and serenity, thereby benefiting all religious faiths, Greek society in general, religious freedom and human rights.

B. Follow-up table addressed to the Indian authorities

5. Set out below are the recommendations addressed in tabular form to the Indian authorities by the Special Rapporteur. The Special Rapporteur at the same time invited the authorities to indicate their comments, as well as measures undertaken and/or envisaged by their Government, in the space provided in the table.

Taking into account paragraph 86 of the report of visit.⁴ The maintenance of religious tolerance presupposes not only economic development, education and a campaign against poverty in order gradually to eliminate the caste system which still survives in practice, but also more informed participation in political life and greater participation in economic life by the population as a whole as a means of preventing the political exploitation of religion to the detriment of tolerance and communal harmony

Taking into account paragraph 91 of the report of visit.⁴ Steps must be taken to increase awareness of the existence and dangers of extremism because, despite the fact that it is confined to a minority, its influence on the masses through political parties, places of worship, schools and even seats of power, could well destroy community and religious harmony in India. With a view to safeguarding religious tolerance and thus ensuring the protection of the rights and freedoms guaranteed by law to religious communities (freedom of belief, freedom to practise a religion and therefore to proselytize, to change religion, etc.), the Special Rapporteur wishes to make certain recommendations designed to combat extremism of all kinds

Taking into account paragraph 92 of the report of visit.⁴ The Special Rapporteur considers it essential that the Representation of the Peoples Act, 1951, should be scrupulously implemented and that in addition it should be speedily supplemented by a new act debarring political parties from the post-election use of religion for political ends. As the riots in Ayodhya, Bombay and Punjab have shown, religious parties, spokesmen and standard-bearers are not always of a nature to promote tolerance and human rights

Taking into account paragraph 93 of the report of visit.⁴ The Special Rapporteur also considers that places of worship should be used exclusively for religious, and not political, purposes. As places for prayer and

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meditation, they should be protected against tension and partisan struggle. The State should therefore ensure that places of worship remain neutral ground and are sheltered from political currents and ideological and partisan controversy. In this connection the Special Rapporteur urges that the dispute concerning Ayodhya should be settled on terms acceptable to the Muslim and Hindu communities. Although the Babri Masjid case can be partially settled by legal means, it must be approached with an exceptional degree of caution and an equally exceptional degree of wisdom. Calling into question situations and rights that are rooted in the distant past is likely to open the door to a sequence of events which could have unforeseeable consequences and in particular lead, through acts of violence performed in the name of an extremist conception of religion, to disorders in various parts of India, the news of which, as it spreads internationally and, more especially, throughout the region, may affect peace and security within the region. The most logical solution would seem to be to restore these places of worship as they were before the riots occurred - unless the religious communities concerned decide to effect a symbolic exchange as a means of cooling passions and reducing tensions. The authorities must remain on the watch to prevent the recurrence of such traumatic incidents, which are sources of division and hate between communities. It is important that the Indian authorities should be fully aware that the dangers in this area are not purely theoretical

Taking into account paragraph 94 of the report of visit.⁴ The financial dependence of political and religious movements on foreign countries is obviously fraught with consequences at all levels

Taking into account paragraph 95 of the report of visit.⁴ Schools in particular should be protected against all forms of political and ideological indoctrination

Taking into account paragraph 96 of the report of visit.⁴ Education can play a vital role in preventing intolerance, discrimination, hate and violence (including violence motivated by extremism) by creating and disseminating a culture of tolerance among the masses and the most disadvantaged segments of the population. It can make a decisive contribution to the assimilation of values based on human rights by the use of school curricula and textbooks reflecting principles of tolerance and non-discrimination. This approach has already been adopted to some extent by the Indian authorities in the education sector through dissemination of the values of tolerance and mutual respect, as was confirmed during the course of the mission during visits to schools, in discussions with pupils and teachers and by the perusal of textbooks. However, this approach must be adopted throughout the country to cover India's entire private and public school system in order to develop the awareness of the masses. It is of vital importance that human rights and tolerance should become the concern of all and not remain the exclusive preserve of the elite

Taking into account paragraph 97 of the report of visit.⁴ The Special Rapporteur also recommends that the Centre for Human Rights should provide advisory services on the organization at the federal and state level of training courses for teachers in preschool, primary or basic and secondary

educational establishments to make them aware of the importance of teaching the principles of tolerance and non-discrimination based on religion and belief

Taking into account paragraph 98 of the report of visit.⁴ As regards Jammu and Kashmir and Punjab, the Special Rapporteur urges all the parties concerned - official and non-official, national and foreign - to act calmly and refrain from exacerbating religious problems in order to ensure that immutable religious principles are not affected by political considerations at the expense of the religious rights of the communities and, more generally, of tolerance and non-discrimination based on religion or belief.

III. REPLIES TO THE FOLLOW-UP TABLES

A. Reply of the Sudanese authorities

6. The response of the Sudanese authorities to each of the recommendations of the Special Rapporteur is as follows:

<u>Recommendation</u>	<u>Comments and measures</u>
1. <u>Legislation</u>	
Taking into account paragraph 135 of the report of visit. ⁵ With reference to the constitutional provisions concerning the armed forces and the duty of <u>Jihad</u> , because of the ambivalence of the concept of <u>Jihad</u> , which has implications that are both offensive (holy war against infidels) and defensive (response to an attack), and because the authorities have stated that they have opted for the defensive meaning, the Special Rapporteur recommends that those authorities clarify, by means of an interpretative text, the defensive meaning of the term " <u>Jihad</u> " in order to make sure that it is compatible with the international norms to which the Sudan has committed itself	The understanding of the Government of the Sudan to the concept of <u>Jihad</u> is that it is a response to an attack against the country and <u>not</u> a holy war against infidels. The practice and circumstances which reflect such understanding are as follows: (a) The current composition of the armed forces in the Sudan includes both Muslims and non-Muslims; (b) The Garang rebel faction includes Muslims among its ranks; (c) Other rebel groups fighting along the eastern border are wholly Muslim;

Recommendation

Taking into account paragraph 136 of the report of visit.⁵ With respect to the application of the shariah, especially to non-Muslims, the Special Rapporteur recommends that the constitutional provisions on the judiciary should be supplemented by legislation ensuring that the courts take into account the customary law of non-Muslims as a guiding source of law to the extent, naturally, that such law is compatible with international human rights provisions

Taking into account paragraph 137 of the report of visit.⁵ The Special Rapporteur also recommends to the authorities that they ensure the compatibility of legislation on hudud offences with human rights and urges that hudud penalties, because they are of exclusively Islamic origin, should not be applied to persons who are not Muslims

Comments and measures

(d) The government forces have never engaged in any fighting other than countering attacks either from rebels or aggressors

Therefore, we do not believe that there is a need to adopt an interpretive text to the concept of Jihad

The Government of the Sudan has already adopted the recommended measures by providing, in constitutional Decree No. 14 which was promulgated in July 1997, that the sources of legislation are Islamic shariah and the customary practice (of non-Muslims)

Because haded penalties are of exclusively Islamic origin, as you have rightly observed, Section 5 of the Criminal Act 1991 excludes Southern Sudan from its application. Also, drinking alcohol by non-Muslims in the north is not punishable since the penalty is a haded penalty. Moreover, Muslims in the south are not subjected to hudud penalties, since it is not always practical to apply criminal law on a personal basis

Recommendation

Taking into account paragraph 138 of the report of visit.⁵ On the subject of proselytism, conversion and apostasy, the Special Rapporteur wishes to emphasize the need to respect internationally established norms in the field of human rights, including the freedom to change one's religion and the freedom to manifest one's religion of belief either individually or in community with others and in public or private, subject to any necessary restrictions provided by law

Taking into account paragraph 140 of the report of visit.⁵ With regard to legislation on public order and the treatment of prisoners, the Special Rapporteur recommends that the authorities bear in mind the commitments they have entered into in the field of human rights, in particular those arising out of the ratification of the International Covenant on Civil and Political Rights, especially article 18. On the question of dress, the Special Rapporteur, while emphasizing that traditions and customs, irrespective of their origins, are equally worthy of respect, urges that dress should not be the subject of political regulation and calls for flexible and tolerant attitudes in this regard, so as to allow the variety and richness of Sudanese garments to manifest themselves without constraint. The Special Rapporteur recommends the revision of the Organization of Prisoners and Treatment of Inmates Act (1992), so that any early release is not applied in a discriminatory manner

Comments and measures

Conversion is not punishable in the Sudan because the Quran mandates that there is no compulsion in religion, but the manifestation of such conversion is punishable within the context of the protection of public tranquillity, as allowed by the internationally established norms in the field of human rights which subject religious freedom to all necessary restrictions provided by law, as you have rightly observed

Allegations regarding dress were all based on the deliberations when the Khartoum State Legislative Assembly was discussing the Public Order Act but, according to the adopted version of the Act, dress is not subject to any political or legal regulation. On the other hand, the law does not allow for an early release to be applied in a discriminatory manner, and if such discrimination is exercised by any government official, that official would be committing an offence. Therefore, if you have any allegations in this connection, we will be most willing to investigate them and take all appropriate legal measures against the official responsible for them

Recommendation

Taking into account paragraph 141 of the report of visit.⁵ On the subject of legislation concerning education, the Special Rapporteur recommends that the State, through the school system, promote the development of a culture of tolerance and non-discrimination

Comments and measures

We agree fully with your comment that the State should, through the school system, promote the development of a culture of tolerance and non-discrimination. In fact, the Sudan is the first country to respond positively to a request by the High Commissioner for Human Rights to promote human rights education, by establishing 26 human rights education committees at the state level. At present, the Sudan is waiting for technical assistance from the Centre for Human Rights as provided for in the recent resolution about the Sudan adopted by the Commission on Human Rights. We kindly request you to exert efforts in order to release such assistance for the Sudan, in particular to be used to implement your valuable recommendations

Taking into account paragraph 142 of the report of visit.⁵ The Special Rapporteur would be grateful if the Sudanese authorities would inform him of the current status of the Provisional Order and recommends more effective consultation with the churches in order to work out legislation that does not jeopardize the free exercise of religious activities, apart from restrictions legitimately provided for under international law

At the request of the Christian community in the Sudan, the Government has repealed the Missionary Societies Act which was promulgated in 1962, long before the current Government assumed power in 1989. In the light of such a tolerant attitude, the Government welcomes your recommendations in this connection, and it is currently engaged in effective consultation with the churches in order to draft legislation that does not jeopardize the free exercise of religious activities

2. Implementation of the legislation and policy in force

With respect to the situation of the non-Muslim communities, while noting the progress made in certain respects which deserves to be emphasized, the Special Rapporteur must nevertheless express his concern

We believe that the concern you have expressed is well taken care of by the following recent developments:

Recommendation

Comments and measures

(a) The signature of the Khartoum Peace Agreement with many rebel factions, which provides for religious freedom, bases laws on both Islamic shariah and the customary practices of non-Muslims, bases all rights and obligations on citizenship and gives southern states the right to self-determination;

(b) The promulgation on July 1997 of Constitutional Decree No. 14 for the prompt and effective implementation of the Khartoum Peace Agreement;

(c) Establishment of the national and technical committees entrusted with the preparation of the draft constitution which is to be finally approved by all peoples of the Sudan through a referendum

Taking into account paragraph 146 of the report of visit.⁵ As regards freedom of religion and belief, the Special Rapporteur considers that there should not be any control that is likely, through limitations and constraints on officials of religion, believers and places of worship, to infringe upon the freedom of belief and the freedom to manifest one's belief

The above-mentioned comments adequately address the freedom of religion and belief

Recommendation

Taking into account paragraph 147 of the report of visit.⁵ The Special Rapporteur considers it essential that any conversion should be the result of free choice and not of constraint. Similarly, the conversion of Muslims to another religion should not give rise to any kind of pressure, restriction or deprivation of freedom with respect to the converted believers and the religious officials of their community

Taking into account paragraph 148 of the report of visit.⁵ Concerning the implementation of the legislation on hudud offences, the Special Rapporteur reiterates the recommendations he made in section 1 above, on legislation

Taking into account paragraph 149 of the report of visit.⁵ On the specific question of places of worship, the Special Rapporteur earnestly recommends that all the limitations on the construction of new places of worship be abolished. As regards the destruction of places of worship in the context of urban development plans, it is essential that provision should systematically be made for measures of compensation, in particular by providing sites for the construction of places of worship

Comments and measures

The fourth comment above addresses the subject of conversion of religion

Our third comment in section 1 above addresses the implementation of the legislation on hudud

We share your earnest views that all limitations on the construction of new places of worship be abolished. Therefore the established legal practice, in cases of destruction of places of worship in the context of urban development plans, is either to pay adequate compensation or to provide better alternative sites. A case in point is the offer made by the Government before the demolition of a temporarily built worship site in the Al-Daroshap neighbourhood, which had been built without obtaining the municipal licence required in urban areas in accordance with city planning

Recommendation

Taking into account paragraph 150 of the report of visit.⁵ It is also necessary that the State should exercise its responsibility with respect to the protection of places of worship, to ensure that such places are shielded from religious extremism, obscurantism and the consequences of the conflict in the south to the Sudan

Taking into account paragraph 151 of the report of visit.⁵ With respect to education, the Special Rapporteur emphasizes the need to make allowances for the religious, ethnic and cultural diversity of the Sudanese population and to respect such diversity in the classroom by reflecting it in the curricula and the treatment accorded to the teachers and pupils of the non-Muslim communities

Taking into account paragraph 152 of the report of visit.⁵ It is also vital that schools should devise teaching methods that promote tolerance and freedom in order to make the unrestricted enjoyment of rights and freedoms available to all

Comments and measures

We fully agree with your viewpoint, since it is the policy of the Government to provide maximum security for the protection of places of worship to ensure that such places are shielded from religious extremism. Therefore, since 1989, only one incident of violence has occurred, and the Government has reacted effectively to that incident by bringing all persons responsible before the law

A quick review of the curricula in the Sudan proves that the Government shares your views, since it makes allowances and provides for the religious, ethnic and cultural diversity of the Sudanese population. On the conceptual level, the recently promulgated Constitutional Decree No. 14 acknowledges that the Sudan is a multicultural, multi-ethnic and multi-religious society, and that such diversity should find reflection in all activities of the State

The constitutional acknowledgement of religious, ethnic and cultural diversity referred to above obliges all schools to devise teaching methods that promote tolerance and freedom in order to make the unrestricted enjoyment of rights and freedoms available to all. We expect to receive technical assistance from the Centre for Human Rights to build our capacities in that connection. In fact, we have already approached the Centre for such assistance, and Mr. Gaspard Biro has supported our request

Recommendation

Taking into account paragraph 153 of the report of visit.⁵ On the subject of protection of the individual, the Special Rapporteur wishes to recall that the physical and moral integrity of individuals must not be threatened, in particular on grounds of faith or belief

Taking into account paragraph 154 of the report of visit.⁵ The Special Rapporteur notes the measures to ease restrictions on the travel of Sudanese and foreign religious officials and on the distribution of religious publications. The Special Rapporteur encourages the extension of these positive measures in order to enable non-Muslim Sudanese to avail themselves of all the rights and freedoms associated with citizenship

Taking into account paragraph 155 of the report of the visit.⁵ Concerning the situation of Muslims, the Special Rapporteur appeals for the various Muslim brotherhoods to be respected. He wishes, however, to specify that religious freedom, in accordance with international law, should be a means of promoting tolerance and should not provide a basis for justifying obscurantism

Comments and measures

We have already alluded to the recent constitutional provisions which guarantee that the physical and moral integrity of individuals should not be threatened, in particular on grounds of faith or belief. And there are many guarantees already included in the existing laws

The measures undertaken to ease restrictions on the travel of Sudanese and foreign religious officials and on the distribution of religious publications, which were noted by you, have recently been extended to the maximum, by basing all rights and obligations on citizenship and not on religious, ethnic or other affiliation

Concerning the situation of Muslims, the Government shares the views that all Muslim brotherhoods should be respected and it is government policy to make religious freedom a means of promoting tolerance. A recent application of such policy is evidenced by the celebration of the occasion of the birth of the prophet Mohammed where more than 30 Muslim religious sects were allowed to celebrate the occasion in the manner they deemed appropriate

Recommendation

Taking into account paragraph 156 of the report of the visit.³ The Special Rapporteur recommends that the religious activities of the various Muslim brotherhoods should be conducted in full freedom, subject to restrictions provided for by internationally established standards and any restrictions to combat violence, extremism and obscurantism

Taking into account paragraph 157 of the report of the visit.³ Sermons should be the sole responsibility of the religious officials, who should be able to perform their religious activities and choose their own means of expression without any pressure, prohibition or interference with their freedom

Taking into account paragraph 158 of the report of the visit.³ The Special Rapporteur also considers that special efforts should be made with respect to places of worship, which should be a forum for religious matters alone, not political ones, and, as places of meditation and prayer, should be protected from political tensions and controversy. The Special Rapporteur earnestly recommends that all of the prohibitions and limitations imposed on the places of worship of the Muslim brotherhoods should be abolished. Similarly, all the community property confiscated, particularly from the Ansar Order, should be returned

Comments and measures

The immediately preceding paragraph adequately addresses this aspect

The paragraph mentioned above adequately addresses this aspect

There are no prohibitions or limitations imposed on the places of worship of Muslims, and the Government is protecting such places from political tensions and controversy. If you are aware of any such prohibitions and limitations, the Government is ready to abolish them. Likewise, the community property has not been confiscated, but it is protected from political exploitation, particularly the property of the Ansar Order. Ansar are free to practise their religious activities in such property. Moreover, the Government has taken the initiative to build a new university in the name of Mohamed Ahmed Elmahdi, the founding father of the Ansar Order

Recommendation

Taking into account paragraph 159 of the report of the visit.⁹ The State is also called upon to exercise its full responsibility with respect to the protection of places of worship and to any criminal acts of destruction or desecration. All manifestations of hatred and intolerance and all acts of violence, intimidation or coercion motivated by religious extremism or intolerance of the religion or belief of others must be condemned and punished

Taking into account paragraph 160 of the report of the visit.⁹ On the subject of protection of the individual, the Special Rapporteur earnestly hopes that restrictions on the freedom of movement of religious officials will be lifted and that the campaigns of harassment and intimidation directed against them, which are also prejudicial to their followers, will cease, thus enabling the Muslim brotherhoods to realize their full potential without fear, constraint or self-censorship, subject, of course, to respect for public order and the law and the avoidance of violence, extremism and obscurantism

Taking into account paragraph 161 of the report of the visit.⁹ The Special Rapporteur considers that the overall policy emphasizing tolerance that has been publicly declared by the authorities should be unambiguously and unambivalently affirmed with greater determination and be followed by specific progress within Sudanese society towards religious, cultural and ethnic diversity.

Comments and measures

Our previous comments address this aspect adequately and show that the Government shares your views in this connection

In fact, there are no restrictions on the freedom of movement of religious dignitaries and officials. Sayed Mohamed Osman Elmoghani, the leader of the Khatmia sect, who is now leading armed opposition against the Government, left the country through Khartoum Airport after having obtained an official exit visa. Also Sayed Sadig Elmahdi of the Ansar sect left the country, less than one year ago, without even obtaining an exit visa, and if the Government were interested in restricting his movement it could have taken effective measures in that connection

As you had hoped for, the overall policy emphasizing tolerance that has been publicly declared by the Government has been unambiguously affirmed with greater determination and has been followed by specific progress towards religious, cultural and ethnic diversity, by the inclusion of such policy in the Khartoum Peace Agreement and Constitutional Decree No. 14 of July 1997.

B. Reply of the Pakistan authorities

7. The response of the Pakistan authorities to each of the recommendations of the Special Rapporteur is as follows:⁶

Recommendation

Blasphemy as an offence against belief may be subject to special legislation. However, such legislation should not be discriminatory and should not give rise to abuse, nor should it be so vague as to jeopardize human rights, especially those of minorities. If offences against belief are made punishable under ordinary law, then a procedural guarantee must be introduced and a balanced attitude must be maintained. While protecting freedom of conscience and freedom of worship is clearly a necessity, applying the death penalty for blasphemy appears disproportionate and even unacceptable. The Special Rapporteur endorses the Government's proposal to amend procedural aspects of the blasphemy law and would encourage it not only to give effect to this proposal, but also to go further in amending the law on blasphemy and more generally on religious offences in accordance with the views expressed above. The Special Rapporteur believes that in any event some practical measures, especially administrative and educational, should be implemented pending more substantial constitutional and legislative changes.

Comments and measures

The Government of Pakistan agrees with the Special Rapporteur. Blasphemy law does not discriminate against Muslims and non-Muslims. It is applicable to all segments of the society and to all religious denominations in Pakistan. Those charged under it have been Muslims as well as non-Muslims. The Government is actively considering changes in the law to deter false and fabricated cases and to punish those indulging in false accusation. Through various administrative measures, such as converting the offence to a non-cognizable one where a case can be registered only after the approval of the Sessions Judge and not directly by the police, the number of cases reported under blasphemy laws has been greatly reduced. The National Commission for Minorities is already examining the issue raised by the Special Rapporteur. It is to be appreciated that the issue is a very delicate one and needs the greatest amount of caution and vision.

Recommendation

The Special Rapporteur recommends that the authorities should check that hudud ordinances are compatible with human rights and urges that hudud penalties, because they are exclusively Muslim, should not be applied to non-Muslims. He also recommends establishing legislation on non-discriminatory evidence and advocates a single electoral system, involving all citizens without distinction, especially based on religion

With regard to proselytizing, conversion and apostasy, the Special Rapporteur wishes to draw attention to the need to abide by international standards laid down in the field of human rights, including freedom to change religion and the freedom to manifest one's religion or belief, either individually or in community with others, in public or in private, subject only to limitations prescribed by law

The Special Rapporteur considers that no mention of religion should be included on passports, on identity cards, application forms or on any other administrative documents. Deletion of the statement required of Muslims regarding non-recognition of Ahmadis as Muslims in passport application forms is strongly recommended

Comments and measures

A committee headed by Justice Saad Saeed Jan is looking into the first point. The hudud laws and the procedure for such punishment is more humane than any other existing law. The standard of proof under the hudud laws form a part of public law which is applicable to all citizens equally. An extremely tough standard has been prescribed to prove offences under these laws. The system of separate electorates has been changed to accommodate the concerns of the Special Rapporteur. All Muslim and non-Muslim communities were able to participate in the national elections held in February 1997 through universal adult franchise

There is no restriction on the change of religion. The Ahmadis have converted to their faith from Islam. As far as a manifestation of one's belief is concerned, this is guaranteed in the Constitution of the country. The Constitution provides freedom to profess religion, manage religious institutions and educational institutions

There is no column on religion on the national identity cards. The entry with respect to religion is made in the passport to enable Muslims to go for Hajj

Recommendation

The Special Rapporteur has strongly recommended that all cases of abuse or rape against girls and women, especially those belonging to minorities, should be duly punished. In this respect, the duty of the police authorities to carry out lawful arrests and searches should be recalled and applied in practice. Similarly, police officers should be held personally responsible, under both civil and criminal law, for arbitrary arrest or detention. An indisputable record must be kept of any arrest/detention and the reason for it, while all legal proceedings and guarantees must be complied with

Victims should be informed as to the proceedings and guarantees provided by law

The Special Rapporteur considers that there is an urgent need to inculcate a spirit of tolerance and freedom in order to ensure that rights and liberties are enjoyed by all. The role of the State in this respect is fundamental and inescapable. There can be no real and lasting progress as regards tolerance while the greater part of the population remains illiterate and as long as the school system, the family, the media and religious practices (regardless of persuasion) are not called upon to make a fundamental effort to bring about a change of attitude and to ensure that the culture of tolerance is developed and strengthened. The

Comments and measures

Rape is a crime which is condemned irrespective of whoever is the victim. Prime Minister Nawaz Sharif has taken a very serious view of crimes committed against women. The election manifesto of his party called for the death sentence for those involved in gang rape. This severe punishment, which has now been legalized through a Presidential Ordinance, only highlights the extreme abhorrence towards this crime. Great attention is also being paid to the restructuring of the police force. A committee has been set up to present proposals to the Prime Minister to make the police more accountable. In the meantime, records, such as ones recommended by the Special Rapporteur, are already kept

This is already being done

The Government of Pakistan concurs with the Special Rapporteur and understands all too well the urgent need for fostering a culture based on tolerance and freedom. Pakistan has unfortunately become a target of terrorist activities. The Government is making all efforts to clean the country of this scourge. It requires a great deal of patience, firm handling and increasing the literacy levels. Efforts are being made on all these fronts. The point made regarding the mass media by the Special Rapporteur is well taken. Radio and television are now being used to spread the message of peace and tolerance

Recommendation

State could also play a more active role in making public opinion more aware of the culture of tolerance. With the encouragement of the State, mass communication media should help more effectively to combat all forms of intolerance based on religion or belief

The Special Rapporteur considers that it would be appropriate to implement the programme of advisory services to the Centre for Human Rights and recalls the recommendations contained in his report.³ Suitable training of police and administrative staff in human rights, especially in the field of religious freedom, would be very welcome

With regard to religious extremism, in accordance with Commission on Human Rights resolution 1995/23,⁷ the Special Rapporteur encourages the Government to restrain it and to take appropriate measures in conformity with the law

By adopting and applying appropriate legislation, the State should guarantee the neutrality of places of worship and shelter them from political excesses and ideological and partisan struggles

Comments and measures

The proposal is under active consideration. The police are given some training in human rights but the police reform exercise is expected to include implementation of suggestions of education in human rights and fundamental freedoms

Pakistan has suffered greatly at the hands of extremist elements. The Government is convinced that these elements must be restrained. Serious consideration is being given to the formulation of a strategy to deal with those elements that spread discord in the society

This is highly desirable. Such a legislation would require some time in view of the presence of legislators of all shades and persuasions. A tough approach could also be construed as an infringement on the right to religious freedom

<u>Recommendation</u>	<u>Comments and measures</u>
Official educational policy should be set out in an appropriate framework legislation aimed at combating illiteracy more effectively and advocating values based on human rights and tolerance, with the purpose of achieving a balanced development of the personality, avoiding the extremes of domination and submission on the one hand and religious tendencies on the other	Efforts towards this end are being made
The legislation concerning political parties should ensure that long-standing religious values are not interfered with by short-term political interest	This under consideration by the new Government
The Special Rapporteur requests that the authorities in all circumstances ensure the operation of justice by protecting the courts from the pressures of demonstrations and crowds.	The events over the past year have proved the independence and impartiality of the Courts and the judiciary.

Notes

¹ A/51/542/Add.1.

² General Assembly resolution 36/55 of 25 November 1981.

³ See E/CN.4/1995/91.

⁴ E/CN.4/1997/91/Add.1.

⁵ A/52/542/Add.2.

⁶ The report on the visit by the Special Rapporteur to Pakistan is contained in document E/CN.4/1996/95/Add.1.

⁷ See Official Records of the Economic and Social Council, 1995, Supplement No. 23 (E/1995/23-E/CN.4/1995/176 and Corr.1-2 and Add.1), chap. II, sect. A.